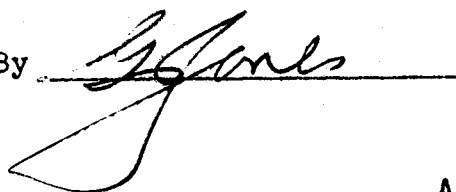


By



H. B. No. _____

A BILL TO BE ENTITLED

AN ACT

adopting a Code Construction Act; defining general terms and providing general rules for the construction of codes (and amendments to them) enacted pursuant to the state's continuing statutory revision program; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. The Code Construction Act is adopted to read as follows:

Code Construction Act

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1.01. PURPOSE. This Act provides rules to aid in the construction of codes (and amendments to them) enacted pursuant to the state's continuing statutory revision program. The rules set out in this Act are not intended to be exclusive but are meant to describe and clarify common situations in order to guide the preparation and construction of the codes.

Sec. 1.02. APPLICABILITY. This Act applies to

(1) each code enacted by the 60th or a subsequent Legislature as part of the state's continuing statutory revision program;

(2) each amendment, repeal, revision, and reenactment of a code, or provision thereof, which amendment, repeal, revision, or reenactment is enacted by the 60th or a subsequent Legislature;

(3) each repeal of a statute by a code; and

(4) each rule promulgated under a code.

Sec. 1.03. CITATION OF CODES. A code may be cited by its name followed by the specific part concerned. For example:

(1) Business & Commerce Code, Tit. 1;

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Sec. 1.04. GENERAL DEFINITIONS. The following definitions apply unless the statute or context in which the word or phrase is used requires a different definition:

(1) "oath" includes affirmation;

(2) "person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity;

(3) "population" means that shown by the most recent federal decennial census;

(4) "property" means real and personal property;

(5) "rule" includes regulation;

1 (6) "signed" includes any symbol executed or adopted by a
2 person with present intention to authenticate a writing;

3 (7) "state", when referring to a part of the United States,
4 includes any state, district, commonwealth, territory, insular
5 possession of the United States, and any area subject to the
6 legislative authority of the United States of America;

7 (8) "swear" includes affirm;

8 (9) "United States" includes department, bureau, and any
9 other agency of the United States of America;

10 (10) "week" means seven consecutive days;

11 (11) "written" includes any representation of words, letters,
12 symbols, or figures; and

13 (12) "year" means 12 consecutive months.

14 SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

15 Sec. 2.01. COMMON AND TECHNICAL USAGE OF WORDS. Words and
16 phrases shall be read in context and construed according to the
17 rules of grammar and common usage. Words and phrases that have
18 acquired a technical or particular meaning, whether by legislative
19 definition or otherwise, shall be construed accordingly.

20 Sec. 2.02. TENSE, NUMBER, AND GENDER. (a) Words in the
21 present tense include the future tense.

22 (b) The singular includes the plural, and the plural includes
23 the singular.

24 (c) Words of one gender include the other genders.

25 Sec. 2.03. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A
26 grant of authority to three or more persons as a public body con-
27 fers the authority upon a majority of the number of members fixed
28 by statute.

29 (b) A quorum of a public body is a majority of the number of
30 members fixed by statute.

31 Sec. 2.04. COMPUTATION OF TIME. (a) In computing a period
32 of days, the first day is excluded and the last day is included.

33 (b) If the last day of any period is a Saturday, Sunday, or
34 legal holiday, the period is extended to include the next day which
35 is not a Saturday, Sunday, or legal holiday.

36 (c) If a number of months is to be computed by counting the
37 months from a particular day, the period ends on the same numerical
38 day in the concluding month as the day of the month from which the
39 computation is begun, unless there are not that many days in the
40 concluding month, in which case the period ends on the last day of
41 that month.

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43 series of numbers or letters, the first and last numbers or letters
44 are included.

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46 Sec. 3.01. INTENTIONS IN ENACTMENT OF STATUTES. In enacting
47 a statute, it is presumed that

48 (1) compliance with the constitutions of this state and the
49 United States is intended;

50 (2) the entire statute is intended to be effective;

51 (3) a just and reasonable result is intended;

52 (4) a result feasible of execution is intended; and

53 (5) public interest is favored over any private interest.

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2 presumed to be prospective in its operation unless expressly made
3 retrospective.

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5 whether or not the statute is considered ambiguous on its face, a
6 court may consider among other matters the

- 7 (1) object sought to be attained;
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- 9 (3) legislative history;
- 10 (4) common law or former statutory provisions, including laws
11 upon the same or similar subjects;
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- 14 (7) title, preamble, and emergency provision.

15 Sec. 3.04. CAPTIONS NOT PART OF STATUTE. Title, subtitle,
16 chapter, subchapter, and section captions do not limit or expand
17 the meaning of any statute.

18 Sec. 3.05. IRRECONCILABLE STATUTES AND AMENDMENTS.
19 (a) Except as provided in Section 3.11(d) of this Act, if statutes
20 enacted at the same or different sessions of the legislature are
21 irreconcilable, the statute latest in date of enactment prevails.

22 (b) Except as provided in Section 3.11(d) of this Act, if
23 amendments to the same statute are enacted at the same session of
24 the legislature, one amendment without reference to another, the
25 amendments shall be harmonized, if possible, so that effect may be
26 given to each. If the amendments are irreconcilable, the latest
27 in date of enactment prevails.

28 Sec. 3.06. SPECIAL OR LOCAL PROVISION PREVAILS OVER GENERAL.
29 If a general provision conflicts with a special or local provision,
30 they shall be construed, if possible, so that effect is given to
31 both. If the conflict between the provisions is irreconcilable,
32 the special or local provision prevails as an exception to the
33 general provision, unless the general provision is the later
34 enactment and the manifest intent is that the general provision
35 prevail.

36 Sec. 3.07. STATUTORY REFERENCES. Unless expressly provided
37 otherwise, a reference to any portion of a statute applies to all
38 reenactments, revisions, or amendments of the statute.

39 Sec. 3.08. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A uniform
40 act included in a code shall be construed to effectuate its
41 general purpose to make uniform the law of those states which
42 enact it.

43 Sec. 3.09. ENROLLED BILL CONTROLS. If the language of the
44 enrolled bill version of a statute conflicts with the language of
45 any subsequent printing or reprinting of the statute, the language
46 of the enrolled bill version controls.

47 Sec. 3.10. REPEAL OF REPEALING STATUTE. The repeal of a
48 repealing statute does not revive the statute originally repealed
49 nor impair the effect of any saving provision in it.

50 Sec. 3.11. SAVING PROVISIONS. (a) Except as provided in
51 Subsection (b) of this section, the reenactment, revision, amend-
52 ment, or repeal of a statute does not affect

- 53 (1) the prior operation of the statute or any prior action
54 taken under it;

1 (2) any validation, cure, right, privilege, obligation, or
2 liability previously acquired, accrued, accorded, or incurred under
3 it;

4 (3) any violation of the statute, or any penalty, forfeiture,
5 or punishment incurred in respect to it, prior to the amendment or
6 repeal; or

7 (4) any investigation, proceeding, or remedy in respect to
8 any privilege, obligation, liability, penalty, forfeiture, or
9 punishment; and the investigation, proceeding, or remedy may be
10 instituted, continued, or enforced, and the penalty, forfeiture,
11 or punishment imposed, as if the statute had not been repealed or
12 amended.

13 (b) If the penalty, forfeiture, or punishment for any
14 offense is reduced by a reenactment, revision, or amendment of a
15 statute, the penalty, forfeiture, or punishment (if not already
16 imposed) shall be imposed according to the statute as amended.

17 (c) The repeal of a statute by a code does not affect an
18 amendment, revision, or reenactment of the statute by the same
19 legislature which enacted the code. The amendment, revision, or
20 reenactment is preserved and given effect as part of the code
21 provision which revised the statute so amended, revised, or
22 reenacted.

23 (d) If any provision of a code conflicts with a statute
24 enacted by the same legislature which enacted the code, the statute
25 controls.

26 ~~Sec. 3.12. SEVERABILITY OF STATUTES. If any provision of a~~
27 ~~statute or its application to any person or circumstance is held~~
28 ~~invalid, the invalidity does not affect other provisions or~~
29 ~~applications of the statute which can be given effect without the~~
30 ~~invalid provision or application, and to this end the provisions of~~
31 ~~the statute are severable.~~

32 Sec. 2. The Code Construction Act takes effect September 1,
33 1967.

34 Sec. 3. The importance of this legislation and the crowded
35 condition of the calendars in both houses create an emergency and
36 an imperative public necessity that the Constitutional Rule
37 requiring bills to be read on three several days in each house be
38 suspended, and this Rule is hereby suspended.
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FORM B

(For favorable reports on bills where committee amendments other than "committee substitutes" are recommended; and for resolutions where committee amendments, including complete substitutes, are recommended.)

COMMITTEE REPORT

Date 4/18/67

HON. BEN BARNES

Speaker of the House of Representatives.

Sir:

We, your Committee on Judiciary, to whom was referred H. B. No. 292, have had the same under consideration and beg to report back with recommendation that it do pass, as amended, and be ~~do be~~ printed.

Penaf B. Ross
Chairman.

(In the case of simple and concurrent resolutions the words "and be printed" should be stricken out since resolutions are printed in the Journal when they are first introduced.

The word "not" should be inserted before "printed" only in case of a local bill reported favorably with amendments and ordered not printed, which is customary for local bills.)

BILL ANALYSIS

Background Information:

A revision program was needed in Code Construction Act

What the Bill proposes to do:

To amend portions of the Code Construction Act.

Section by section analysis:

Section 1. Deals with Subchapters: Definitions Subchapter A
Section 1.01 PURPOSE

Section 1.02 APPLICABILITY

Section 1.03 CITATION OF CODES

Section 1.04 GENERAL DEFINITIONS

SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

Section 2.01 COMMON AND TECHNICAL USAGE OF WORDS

Section 2.02 TENSE, NUMBER, AND GENDER

Section 2.03 AUTHORITY AND QUORUM OF PUBLIC BODY

Section 2.04 COMPUTATION OF TIME

Section 2.05 REFERENCE TO A SERIES

SUBCHAPTER C. CONSTRUCTION OF STATUTES

Section 3.01 INTENTIONS IN ENACTMENT OF STATUTES

Section 3.02 PROSPECTIVE OPERATION OF STATUTES

Section 3.03 CONSTRUCTION AIDS

Section 3.04 CAPTIONS NOT PART OF STATUTE

Section 3.05 IRRECONCILABLE STATUTES AND AMENDMENTS

Section 3.06 SPECIAL OR LOCAL PROVISION PREVAILS OVER GENERAL

Section 3.07 STATUTORY REFERENCES

Section 3.08 UNIFORM CONSTRUCTION OF UNIFORM ACTS

Section 3.09 ENROLLED BILL CONTROLS

Section 3.10 REPEAL OF REPEALING STATUTE

Section 3.11 SAVING PROVISIONS

Section 3.12 SEVERABILITY OF STATUTES

Section 2. The Code Construction Act takes effect September 1, 1967.

Section 3. Declares and emergency.

Amendment 1. Amends Section 3.12 in the severability of statutes

Summary of Committee Hearing:

H.B. No. 292 was passed to the House with the recommendation that it do pass and be printed as amended.

COMMITTEE AMENDMENT

NO. 1

Hale

COMMITTEE AMENDMENT NO. 1

Insert
Amend H.B. 292 by deleting therefrom all of Section 3.12, and substituting in lieu thereof the following:

Section 3.12. SEVERABILITY OF STATUTES. If any Act passed by the Legislature shall contain a provision for severability, such provision shall prevail in the interpretation of such statute. If any Act passed by the Legislature shall contain a provision for non-severability, such provision shall prevail in the interpretation of ~~the~~ ^{SUCH} statute. In the absence of such determination by the Legislature in a particular Act for severability or non-severability, the following construction of such Act shall prevail: If any provision of a statute or its application to any person or circumstance is held invalid, the invalidity does not ~~a~~ffect other provisions or applications of the statute which can be given effect without the invalid provision or application, and to this end the provisions of the statute are severable.

Hale

DATE MAY 1 1967

READ AND ADOPTED

Dorothy Hallman
CHIEF CLERK
HOUSE OF REPRESENTATIVES

for JK

By: Jones of Taylor

H.B. No. 292

A BILL TO BE ENTITLED

AN ACT

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H.B. No. 292

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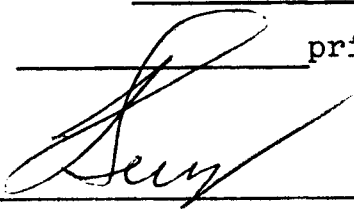
Austin, Texas

May 11, 19 67

Hon. Preston Smith
President of the Senate

Sir:

We, your Committee on Jurisprudence,
to which was referred H. B. No. 292, have had the same
under consideration, and I am instructed to report it back to
the Senate with the recommendation that it do _____
pass _____ and be _____ printed.



Chairman Herring

CAS

ENROLLED

H.B. No. 292

AN ACT

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- (7) title, preamble, and emergency provision.

Sec. 3.04. CAPTIONS NOT PART OF STATUTE. Title, subtitle, chapter, subchapter, and section captions do not limit or expand the meaning of any statute.

Sec. 3.05. IRRECONCILABLE STATUTES AND AMENDMENTS.

(a) Except as provided in Section 3.11(d) of this Act, if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails.

(b) Except as provided in Section 3.11(d) of this Act, if amendments to the same statute are enacted at the same session of the legislature, one amendment without reference to another, the amendments shall be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

Sec. 3.06. SPECIAL OR LOCAL PROVISION PREVAILS OVER GENERAL. If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision prevail.

Sec. 3.07. **STATUTORY REFERENCES.** Unless expressly provided otherwise, a reference to any portion of a statute applies to all reenactments, revisions, or amendments of the statute.

Sec. 3.08. **UNIFORM CONSTRUCTION OF UNIFORM ACTS.** A uniform act included in a code shall be construed to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 3.09. **ENROLLED BILL CONTROLS.** If the language of the enrolled bill version of a statute conflicts with the language of any subsequent printing or reprinting of the statute, the language of the enrolled bill version controls.

Sec. 3.10. **REPEAL OF REPEALING STATUTE.** The repeal of a repealing statute does not revive the statute originally repealed nor impair the effect of any saving provision in it.

Sec. 3.11. **SAVING PROVISIONS.** (a) Except as provided in Subsection (b) of this section, the reenactment, revision, amendment, or repeal of a statute does not affect

(1) the prior operation of the statute or any prior action taken under it;

(2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;

(3) any violation of the statute, or any penalty, forfeiture, or punishment incurred in respect to it, prior to the amendment or repeal; or

(4) any investigation, proceeding, or remedy in respect to any privilege, obligation, liability, penalty, forfeiture, or

punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

(b) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment (if not already imposed) shall be imposed according to the statute as amended.

(c) The repeal of a statute by a code does not affect an amendment, revision, or reenactment of the statute by the same legislature which enacted the code. The amendment, revision, or reenactment is preserved and given effect as part of the code provision which revised the statute so amended, revised, or reenacted.

(d) If any provision of a code conflicts with a statute enacted by the same legislature which enacted the code, the statute controls.

Sec. 3.12. SEVERABILITY OF STATUTES. If any Act passed by the Legislature shall contain a provision for severability, such provision shall prevail in the interpretation of such statute. If any Act passed by the Legislature shall contain a provision for non-severability, such provision shall prevail in the interpretation of such statute. In the absence of such determination by the Legislature in a particular Act for severability or non-severability, the following construction of such Act shall prevail: If any provision of a statute or its application to any person or circumstance is held invalid, the invalidity does not affect other

H.B. No. 292

provisions or applications of the statute which can be given effect without the invalid provision or application, and to this end the provisions of the statute are severable.

Sec. 2. The Code Construction Act takes effect September 1, 1967.

Sec. 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

Lieutenant Governor
President of the Senate

Speaker of the House

I hereby certify that H.B. No. 292 was passed by the House on May 8, 1967, by a non-record vote.

Chief Clerk of the House

H.B. No. 292

I hereby certify that H.B. No. 292 was passed by the Senate
on May 24, 1967, by a viva-voce vote.

Secretary of the Senate

APPROVED:

6-12-67

Date

John Connally

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:05 a.m. O'CLOCK

JUN 13 1967

John L. Rice

Secretary of State

H.B. No. 292 By James, Grant

A BILL TO BE ENTITLED
AN ACT

adopting a Code Construction Act; defining general terms and providing general rules for the construction of codes (and amendments to them) enacted pursuant to the state's continuing statutory revision program; and declaring an emergency.

FILED FEB 1 1967

Adapted from
Chief Clerk, House of Representatives

FEB 2 1967 READ 1ST TIME
AND REFERRED TO COMMITTEE ON

Judiciary

REPORTED FAVORABLY
AS AMENDED

APR 19 1967

PRINTED, DISTRIBUTED AND

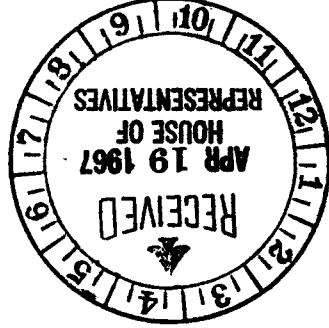
REFERRED TO COMMITTEE ON

RULES 3:45 P.M. APR 19 1967
(Time) (Date)

MAY 1 1967

MOTION TO RECONSIDER THE VOTE BY WHICH HB #292 was engrossed AS ADOPTED / PASSED AND TO TABLE THE MOTION IN-
SIDER PREVAILED passed BY A non-record vote.

Dorothy Hallman
CHIEF CLERK HOUSE OF REPRESENTATIVES



MAY 1 1967 SENT TO ENGROSSING CLERK

MAY 1 1967 READ SECOND
TIME Amended AND
ORDERED non-record vote, by
Dorothy Hallman
Chief Clerk, House of Representatives

By: Jones of Taylor

H.B. No. 292

A BILL TO BE ENTITLED

AN ACT

adopting a Code Construction Act; defining general terms and providing general rules for the construction of codes (and amendments to them) enacted pursuant to the state's continuing statutory revision program; and declaring an emergency.

- 2- 1-67 Filed.
- 2- 2-67 Read first time and referred to Committee on Judiciary.
- 4-19-67 Reported favorably as amended, sent to printer.
- 4-19-67 Printed, distributed and referred to Committee on Rules at 3:45 p.m.
- 5- 1-67 Read second time, amended and ordered engrossed by a non-record vote.

Dorothy Hallman
Chief Clerk, H. of R.

- 5- 1-67 Sent to Engrossing Clerk.
- 5- 1-67 Engrossed.

Cara Suggs
Engrossing Clerk, H. of R.

MAY 2 1967 RETURNED FROM ENGROSSING CLERK

MAY 8 1967

Read third time

and Passed

non-record
by following vote: *yea*

Name

Dorothy Hallman
Chief Clerk
HOUSE OF REPRESENTATIVES

MAY 8 1967

MOTION TO RECONSIDER THE VOTE BY WHICH *HB # 292* WAS ADOPTED / PASSED AND TO TABLE THE MOTION TO RECONSIDER PREVAILED PASSED BY A *non-record* VOTE

Dorothy Hallman
CHIEF CLERK HOUSE OF REPRESENTATIVES

MAY 9 1967 SENT TO THE SENATE

MAY 8 1967

IN THE SENATE

Received from the House

MAY 9 1967

Read first time

and referred to Committee

on *Jurisprudence*

MAY 11 1967

Reported Favorably.

MAY 24 1967

Regular order of business suspended by unanimous consent to permit consideration.

MAY 24 1967

READ SECOND TIME,

AND PASSED TO THIRD READING.

MAY 24 1967

Senate Rule 32 and
Constitutional Rule (Sec. 32, Art. III)
suspended by a vote of 30 yeas,
0 nays, to place bill on third
reading and final passage.

MAY 24 1967

READ THIRD TIME AND

PASSED BY A VIVA-VOCE VOTE:

Charles Dohnabel
Secretary of the Senate.

MAY 24 1967

SENT TO HOUSE

MAY 24 1967

RETURNED FROM SENATE

Dorothy Hallman
Chief Clerk, House of Representatives

SENT TO ENROLLING CLERK

MAY 24 1967